Supreme Court, U.S.
FILED

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No. _____

In The

Supreme Court of the United States

October Term, 1995

Ex parte RANDY TAYLOR,

Petition For Writ Of Certiorari To The Supreme Court Of The State Of Alabama

PETITION FOR WRIT OF CERTIORARI

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ISSUE PRESENTED FOR REVIEW

WHETHER THE EVIDENCE AGAINST THE PETITIONER WAS OBTAINED BY LAW ENFORCEMENT OFFICERS THROUGH A WARRANTLESS SEARCH OF PRIVATE VIDEOTAPES IN VIOLATION OF THE PETITIONER'S PROTECTION AGAINST UNREASONABLE SEARCHES AND SEIZURES, AS GUARANTEED BY THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION. ADDITIONALLY, WAS THE HOLDING OF THE CIRCUIT COURT OF MARSHALL COUNTY, ALABAMA, THE ALABAMA COURT OF CRIMINAL APPEALS AND THE ALABAMA SUPREME COURT ALLOWING THE VIDEOTAPES TO BE INTRODUCED INTO EVIDENCE OVER THE PETITIONER'S TIMELY OBJECTION CONTRARY TO THE STANDARD OF LAW APPLICABLE TO WARRANTLESS SEARCHES OF BOOKS OR OTHER MATERIALS PROTECTED BY THE FIRST AMENDMENT, AS THE SAME IS SET OUT IN THE OPINION OF THIS COURT IN *WALTER v. UNITED STATES*, 447 U.S. 649 (1980)?

PARTIES TO THE PROCEEDING

Petitioner: Randy Taylor

Respondent: State of Alabama

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CITATION OF OFFICIAL REPORT

Certiorari to the Alabama Supreme Court is sought from the following opinion:

Ex Parte Randy Taylor, ___ So. 2d.___ (Ala. Crim. App., 1996), cert. den. ___ So.2d. ___, (1996).

JURISDICTIONAL GROUNDS FOR REVIEW BY PETITION FOR CERTIORARI

Jurisdiction for review by this Court is invoked by your Petitioner pursuant to 28 U.S.C., §1257. The holding of the Circuit Court of Marshall County, Alabama, as affirmed by the Alabama Court of Criminal Appeals, with certiorari being denied on May 17, 1996 by the Alabama Supreme Court, denies the Petitioner his right to protection against unreasonable searches and seizures as guaranteed by the Fourth Amendment to the United States Constitution, which states:

> "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

In holding that the Petitioner's rights had not been violated, the decisions of the Alabama Courts are in direct conflict with the decision of this Court in *Walter v. United States*, 447 U.S. 649 (1980).

STATEMENT OF THE CASE

On December 29, 1993, Sheila Taylor took from her estranged husband's locked desk drawer, twelve videotapes of which she had no knowledge of the contents. She viewed approximately five seconds of one videotape which depicted an adult female in a tanning booth.[1] Sheila Taylor then took the twelve videotapes to her divorce attorney, the Honorable Randy Beard. Before relinquishing possession of the tapes, she did not review any portions of them other than the initial five seconds. Mr. Beard kept four of the videotapes and gave the remaining eight back to Mrs. Taylor to copy before returning to her husband's possession. After Mr. Beard refused to return the four videotapes to Sheila Taylor, they were obtained from Mr. Beard's Office without explanation, by Officer Mike Blackwood of the Albertville, Alabama Police Department. Without obtaining a search warrant, and without the consent of Randy Taylor, Officer Mike Blackwood then viewed the video tapes in their entirety. Out of the four tapes, there were two scenes of minor females depicted in the state of undress or partial undress while using the tanning beds. Based solely upon the two scenes in those videotapes, the Defendant, Randy Taylor, was indicted in May, 1994 on two counts of Production of Obscene Matter in violation of §13A-12-197, Code of Alabama of 1975, as amended.

---

[1] Randy Taylor and Sheila Taylor operated a tanning salon for a number of years. The ownership of the tanning salon was one of the items being contested in the divorce action. Sheila Taylor recognized the scene as being inside one of the tanning booths at the Taylor's Ultra Tan.

On June 20, 1994, Taylor entered a plea of not guilty to all charges. On March 21, 1995, prior to the trial beginning, he made a Motion on the record to suppress or to exclude evidence in the form of the videotapes obtained by the State, and as grounds for such Motion, he asserted his Fourth Amendment rights to protection against unreasonable searches and seizures. The trial judge refused to grant the Motion to exclude or suppress (RT 5).

The Petitioner again objected to the introduction of such videotapes at the time they were offered into evidence and such objection was overruled by the trial court (RT 128). After additional discussion regarding the introduction of the tapes, the Petitioner again objected to their introduction and the same was once again overruled by the trial court (RT 134-136).

At the close of the State's case, Taylor moved for Judgment of Acquittal pursuant to Rule 20.2 of the Alabama Rules of Criminal Procedure, and the same was overruled by the trial court (RT 168).

On March 22, 1995, the case was submitted to the Jury and Taylor was found guilty of two counts of Production of Obscene Matter (RT 251). On April 7, 1995, he was sentenced to ten years imprisonment and ordered to pay a fine of $5,000.00 (RT 266).

On April 20, 1995, the Petitioner's Motion for New Trial was overruled.

On April 20, 1995, Notice of Appeal to the Alabama Court of Criminal Appeals was filed. By Memorandum Opinion on December 1, 1995, the Alabama Court of

Criminal Appeals affirmed the decision of the Circuit Court of Marshall County, Alabama.

On January 19, 1996, the Alabama Court of Criminal Appeals overruled the Petitioner's Motion for Rehearing and also overruled his Motion under Rule 39(K) of the Alabama Rules of Appellate Procedure to approve the Defendant's Statement of Facts.

On February 2, 1996, Taylor filed his Petition for Certiorari to the Alabama Court of Criminal Appeals in the Alabama Supreme Court. By Order of May 17, 1996, the Alabama Supreme Court denied the Petition for Writ of Certiorari to the Court of Criminal Appeals.

Your Petitioner now petitions this Court for Writ of Certiorari directed to the Alabama Supreme Court.

ARGUMENT

THE EVIDENCE AGAINST THE PETITIONER WAS UNLAWFULLY OBTAINED BY LAW ENFORCEMENT OFFICERS THROUGH A WARRANTLESS SEARCH OF PRIVATE VIDEOTAPES IN VIOLATION OF THE PETITIONER'S PROTECTION AGAINST UNREASONABLE SEARCHES AND SEIZURES, AS GUARANTEED BY THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION. FURTHER, THE HOLDING OF THE CIRCUIT COURT OF MARSHALL COUNTY, ALABAMA, THE ALABAMA COURT OF CRIMINAL APPEALS AND THE ALABAMA SUPREME COURT ALLOWING THE VIDEOTAPES TO BE INTRODUCED INTO EVIDENCE OVER THE PETITIONER'S TIMELY OBJECTION WAS CONTRARY TO THE STANDARD OF LAW APPLICABLE TO WARRANTLESS SEARCHES OF BOOKS OR OTHER MATERIALS PROTECTED BY THE FIRST AMENDMENT, AS THE SAME IS SET OUT IN THE OPINION OF THIS COURT IN *WALTER v. UNITED STATES*, 447 U.S. 649 (1980).

The Fourth Amendment to the United States Constitution guarantees the public the protection against unreasonable searches and seizures. This statement of law is basic to the individual rights of the American people which have been upheld for more than two hundred years. In this case, police officers conducted a warrantless search of videotapes in violation of Randy Taylor's constitutional rights.

The videotapes in question were located inside a locked drawer at Taylor's residence. They were taken from the locked drawer by Taylor's soon to be ex-wife. She viewed five seconds of the videotape in which no criminal activity was observed. She then immediately

delivered those videotapes to her divorce lawyer who maintained possession and control of them for several weeks. The attorney refused to deliver those tapes to the police or return them to Ms. Taylor. By some unexplained process, Police Officer Mike Blackwood, obtained the tape from the attorney's office. Without obtaining a warrant or getting the consent of Taylor, Officer Mike Blackwood then viewed the videotapes in their entirety.

The contents of photographs, films, videotapes, books and other printed matter are generally protected by the First Amendment to the United States Constitution and their unauthorized exhibition is prohibited by the parameters of the Fourth Amendment to the United States Constitution.[2] The viewing of such matters by law enforcement officers is considered a "search" which requires either an appropriately issued search warrant or "exigent circumstances". *Stanley v. Georgia*, 394 U.S. 577 (1969). *Walter v. United States*, 447 U.S. 649 (1980). As this Court so clearly held under the circumstances in *Walter v. United States*, supra, the warrantless viewing of movie film "constitutes an unreasonable invasion of the owner's constitutionally protected interest in privacy. It was a search; . . . " 447 U.S. at 654. That is, the viewing itself was a search.

The State contends that because there was no evidence that the tapes were illegally seized, the *contents* of the tape could then be examined without a warrant.

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[2] The guarantees of the Fourth Amendment are applicable to the State's actions under the Fourteenth Amendment to the United States Constitution. *Coolidge v. New Hampshire*, 403 U.S. 443, 453 (1971).

Determining the lawful or unlawful means by which Officer Mike Blackwood came into possession of the videotape is not dispositive of the issue presented to this Court. Under *Walter* it does not matter how the officer came into possession of the tape itself because the lawful possession of the tape does not, without more, also bestow upon the officer the authority to search it's contents. "[A]n officer's authority to possess a package is distinct from the authority to examine it's contents." *Walter v. United States*, 447 U.S., 649, 654; *Arkansas v. Sanders*, 442 U.S. 753, 758 (1979); *United States v. Chadwick*, 433 U.S. 1, 10 (1977). Under the circumstances of this case, if the officer had lawful possession of the videotape, and if he had probable cause to believe it contained illegal material, he had ample opportunity to obtain a search warrant for the tape's contents. Exploratory searches, such as the one now before the Court, can not be "undertaken by officers with or without a warrant." *Walter v. United States*, 447 U.S. at 653. Where probable cause does exist, a warrant is required. Contrary to the facts found in *Walter*, where the labels on the movies gave the officers probable cause to believe that the tape's contents were illegal, here there was no indication that the tapes contained unlawful material.

Therefore, without a valid search warrant, the officer had no right to examine the contents of the videotape, unless the State proved "exigent circumstances" that would permit a warrantless search. *Coolidge v. New Hampshire*, 403 U.S. 443 (1971). The State contends that because Sheila Taylor, the Petitioner's wife, obtained possession of the tapes, that, in and of itself, gave the officer the

right to examine the contents of the tape.[3] Assuming, for the purposes of this argument, that Sheila Taylor did have joint control over the locked desk drawer, the fact that she at one time had possession of the tapes would permit or condone a warrantless viewing of the tapes by Officer Blackwood under only two circumstances, neither of which are present there.

A. *Private Search: If* Sheila Taylor had viewed the contents of the tape, and upon viewing of the contents, observed unlawful material before delivering the tape to police officers, then the owner's [Randy Taylor] right of privacy would have been destroyed and the viewing of the tape by police would not have been unreasonable. *Coolidge v. New Hampshire,* 403 U.S. at 487; *Walter v. United States,* 477 U.S. at 656-658. However, such is not the case

---

[3] In it's brief to the Alabama Court of Criminal Appeals, the State stated that "Ms. Taylor gave her copies of the tapes to Mike Blackwood, Chief Investigator for the Arab Police Department" (State's Brief at page 3). Such statement is incorrect. Officer Blackwood testified as follows:

> Question: At some point and time, did you come into possession of [videotapes].
>
> Answer: Yes, I did.
>
> Question: Did those come from her attorney's office, Sir?
>
> Answer: Yes (RT 160).

Sheila Taylor testified as follows:

> Question: Ms. Taylor, let me ask you this: After you took the tapes to Mr. Beard's Office and left . . . did you personally ever get those four tapes again and do anything with them?
>
> Answer: No, Sir (RT 57).

here since she only viewed five seconds of one tape which showed no criminal activity or unlawful matters.

B. *Consent*: The State further contends that Sheila Taylor, as a person in joint control of the videotape, consented to their warrantless search by Officer Mike Blackwood. The record is void of any evidence supporting the State's contention on this particular point. The only evidence before the trial court at the time the videotapes were offered into evidence revealed that Sheila Taylor had obtained possession of the tapes from the home she jointly occupied with her husband, Randy Taylor, and delivered those tapes to her attorney. Several weeks later, after the tapes had come into the possession of Officer Mike Blackwood, she viewed the tape in his presence (RT 60). There was no evidence before the trial court to support a finding that a person having joint control over the tapes consented to their search. In fact, the Court made no such finding, but simply overruled the Petitioner's Motion to Exclude on three separate occasions.[4] The only evidence before the Court regarding the viewing of the tapes was as follows:

Sheila Taylor testified:

> Question: The next time you saw the tapes, did Mike Blackwood have them?

---

[4] Rule 15.6 of the Alabama Rules of Criminal Procedure effective January 1, 1991, provides for a Pre-Trial Motion by the Defendant to suppress evidence seized by an unlawful search or seizure. Rule 15.4(a) provides that such Motions "shall be determined before trial unless the Court, for a good cause, orders that it be deferred for determination at the trial on the merits." The trial court failed to conduct a hearing on the Defendant's Pre-Trial Motion.

Answer: Yes, sir.

Question: And is that when you viewed the tapes in their entirety, Ms. Taylor?

Answer: Yes, sir (RT 60).

Officer Mike Blackwood testified as follows:

Question: Now, Mike, after these [tapes] came into your possession, did you view in their entirety, State's Exhibit's No. 2 and 3?

Answer: Eventually I did, yes, sir (RT 160).

The burden of proof is upon the State to establish the facts which would circumvent the need for a search warrant. "[S]earches conducted outside the judicial process, without prior approval by Judge or Magistrate, are per say unreasonable under the Fourth Amendment – subject only to a few specifically established and well delineated exceptions". *Katz v. United States*, 389 U.S. 347, 357 (1967). Those "exceptions" are not easily proven and the burden falls upon the State to illicit such facts that will establish such exceptions.

In asserting it's reliance upon "exigent circumstances" to avoid the need for a search warrant, the State relies upon the holding of *Ex Parte Hilley*, 484 So. 2d., 485 (Ala., 1986). In fact, the Alabama Court of Criminal Appeals affirmed the Petitioner's conviction by Memorandum Opinion relying upon *Ex Parte Hilley*. Such reliance and interpretation of *Ex Parte Hilley* under the circumstances presently before the Court is misplaced. *Hilley* dealt with a warrantless search of the contents of a medicine vial based upon the consent of a person having control over the vial and its contents. Such is clearly

distinguishable from the situation presented to the trial court in the first instance and now presented to this Court for review. The pertinent facts necessary to determine whether or not exigent circumstances existed, are as follows:

- Sheila Taylor obtained possession of the tapes from her husband's locked drawer.
- Sheila Taylor viewed five seconds of one tape without viewing any illegal activity.
- Sheila Taylor delivered the tapes to her divorce attorney.
- Her divorce attorney refused to return the tapes to her or deliver them to the police officer.
- Officer Mike Blackwood obtained possession of the tape from Sheila Taylor's attorney.
- Officer Mike Blackwood viewed the tapes.
- Officer Blackwood and Sheila Taylor viewed the tapes together.

None of these factors, either separately or in combination, establish exigent circumstances which would permit the warrantless viewing of the videotapes by Officer Mike Blackwood.

Therefore, as this Court has held on previous occasions, "because the films were seized in violation of the Fourth and Fourteenth Amendments, they were inadmissible as evidence at the Appellant's trial." *Walter v. United States,* 447 U.S. at 446; *Stanley v. Georgia,* 394 U.S. 557 at 569. The contents of the videotapes illegally seized were the sole and only evidence against the Petitioner at

the trial. The prosecutor agreed prior to the case being tried, that without the tapes, they had no case against the Petitioner. Therefore, this matter should be remanded to the Supreme Court of the State of Alabama with instructions for the entry of a judgment of Acquittal on behalf of the Petitioner.

CONCLUSION AND PRAYER OF RELIEF

Your Petitioner prays that this Court will grant the Petition for Writ of Certiorari to the Supreme Court of the State of Alabama and upon a full review of this matter, will remand the same with appropriate instructions in accordance with *Walter v. United States*, 447 U.S. 649 (1980) to suppress or otherwise exclude the videotapes illegally searched.

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APPENDIX

I. Excerpts of Official Record on Appeal.....A-1

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PROCEEDINGS ON MARCH 20, 1995,
IN COURTROOM NO. ONE,
MARSHALL COUNTY COURTHOUSE,
GUNTERSVILLE, ALABAMA

(The Defendant being present in open court together with the attorneys of record, the jury was qualified and selected.)

* * *

PROCEEDINGS ON MARCH 21, 1995,
IN COURTROOM NO. TWO,
MARSHALL COUNTY COURTHOUSE,
GUNTERSVILLE, ALABAMA

(The Defendant being present in open court together with the attorneys of record, the following proceedings occurred:) (RT 3) * * *

object to the admission of this tape, and we need to go into some matters on that.

THE COURT: Well, make your objection. It hadn't been offered yet.

MR. MANN: Well, before it is played to the jury – I would object to it being played to the jury.

THE COURT: On what grounds?

MR. MANN: I have many grounds, Judge. The fact that the tape – Byron, is this the one of both breast nudity and genital nudity?

MR. WALDROP: This is both breast and genital nudity.

MR. MANN: Judge, I'm going to object to the tape because it was illegally seized. If you'll let

me get my notes. There are going to be some issues, Judge, in that, number one, the – (RT 127).

* * *

MR. MANN: Well, Your Honor, I'm objecting to showing the jury – or their admission because there was no search warrant to view the tapes. (RT 128).

* * *

THE COURT: Go ahead with your objection. That's overruled. (RT 129).

* * *

MR. WALDROP: Jana, you can go back around and have a seat over there with your family. (RT 133).

Judge, again, at this time the State would re-offer into evidence State's Exhibit No. 2.

THE COURT: Mr. Mann?

MR. MANN: Do you want to offer both of them at this time, Byron, to save time?

MR. WALDROP: To save time, certainly, yes, sir. We'll offer State's Exhibits 2 and 3.

MR. MANN: Your Honor, we would object to their admission based on the fact, number one, the information contained on the tapes is the result of an illegal search. There was no search issued to view the tapes. Also, that the tapes – well – Byron, was the first one you played No. 2? (RT 133, 134).

* * *

THE COURT: Overruled. As to the search warrant, overruled. (RT 136).

(Jury enters courtroom and is seated in jury box).

THE COURT: All right, sir. Are you the foreman, sir?

FOREMAN: Yes, sir.

THE COURT: Have you reached a verdict?

FOREMAN: Yes, we have.

THE COURT: Would you stand and read the verdict, please.

FOREMAN: "We, the jury, find the Defendant guilty as charged in Count One of the indictment.

"Count Two. We, the jury, find the Defendant guilty as charged in Count Two of the indictment." (RT 251).

THE COURT: All right. Mr. Taylor, come around, please sir.

(Defendant and attorneys approach bench.)

THE COURT: Mr. Randy Taylor, the jury having returned a verdict of guilty as aforesaid, it is Considered and Adjudged by the Court as follows: That the indictment charges in Count One and Count Two of the indictment production of obscene matters depicting persons under 17 years of age. That the Defendant has entered pleas of not guilty to the charge. Trial by jury was had on the issues joined and the verdict of the jury as ready by the foreman, Mr. Fleming.

I'm not going to adjudge you guilty at this point, Mr. Taylor. I understand you want a presentence report, Mr. Mann? (RT 252).

THE COURT: All right. Thank you, gentlemen. I have had a difficult time with this case and had some real soul and legal searching in my own mind. I note that Mr. Taylor has not had any kind of history of serious criminal offenses. He hasn't had anything in his record of any serious nature . . . (RT 264). So I have decided to do this and will do so: After the foregoing it is Considered and Adjudged by the Court – don't get upset . . . (RT 265) this is not all of it – be sentenced to imprisonment for a term of 10 years. Of that sentence, he shall serve one year in the state penitentiary, and the remainder of nine years suspended, placed on probation for five years. He will be fined $5,000, restitution, to pay for reasonable and necessary – those are uncertain words, but we'll get the doctors to tell us the answer to them – counseling for the victims herein, and as a condition for probation, to attend counseling himself at the Mental Health or wherever referred; payment of costs, attorneys fees, victim assessment will be $50 and costs plus the restitution, supervision fees.

I'm going to give you a turn-in date, Mr. Taylor, of April the 21st at 3 o'clock p.m. I don't have any great concern that you will be there, Mr. Taylor, because if you are not, that will be automatic revocation of your probation; do you understand? (RT 266).

* * *

IN THE CIRCUIT COURT OF MARSHALL COUNTY
STATE OF ALABAMA

STATE OF ALABAMA

vs. CASE NO. CC 94-160

RANDY TAYLOR

MOTION FOR NEW TRIAL

COMES NOW the defendant, by and through his undersigned attorney, and moves this Court to set aside the verdict of the jury in this cause and grant unto the Defendant a new trial on the following grounds, separately and severally:

1. The verdict of the jury is contrary to the overwhelming weight of the evidence in this case.

2. The verdict of the jury is contrary to the law in this case.

3. The verdict of the jury is contrary to the law and the evidence in this case.

4. The Court erred in refusing each and every one of the requested charges submitted on the behalf of the defendant.

5. The Court erred in failing to sustain each and every one of the requested charges submitted on the behalf of the defendant.

6. The Court erred in failing to sustain the defendant's objections in each and every instance where and when such objections were overruled during the course of the trial.

7. The Court erred in failing to overrule each and every objection made and offered by the State in regard

to the evidence and testimony offered by the defense during the trial.

8. The Court erred in denying the defendant's motion to exclude the evidence made at the conclusion of the State's case.

9. The Court erred in allowing into evidence the videotapes made the basis of the indictment against the defendant in that the videotapes were seized, searched and viewed in violation of the First and Fourteenth Amendments to the Constitution of the United States.

10. The Court erred in denying all the defendant's pre-trial motions in this cause.

/s/

Robert C. Mann
Attorney for Defendant
520 Gunter Avenue,
Suite 203
Guntersville, Alabama 35976
(205) 582-0042

Certificate of Service

I hereby certify that I have this date handed/mailed a copy of the foregoing Motion to the attorney for the plaintiff, Ronald P. Thompson, District Attorney, this the 20th day of April, 1995.

/s/

Robert C. Mann

CASE ACTION SUMMARY
CONTINUATION

State of Alabama
Unified Judicial System

Case Number:
CC 94-160

Style:

STATE v. RANDY TAYLOR

ACTIONS, JUDGMENTS, CASE NOTES

4-20-95 Upon consideration, motion for new trial overruled.

Court of Criminal Appeals
State of Alabama
Judicial Building, 300 Dexter Avenue
P.O. Box 301555
Montgomery, AL 36130-1555

DEC 1 1995

SAM TAYLOR
Presiding Judge
JOHN PATTERSON
H. WARD MCMILLAN
FRANCIS ALLEN LONG, SR.
SUE BELL COBB
Judges

Clerk's Office
(334) 242-4590

MEMORANDUM

CR 94-1385 Marshall Circuit Court No.: CC94-160

Randy Taylor v. State

Affirmed by memorandum. The appellant's issue concerning the admissibility of the videotapes is decided adversely to him on the merits. "The Fourth Amendment proscribes *only governmental action* and does not apply to a search or seizure – even an unreasonable one – conducted by a private individual, unless that person is acting as an agent of the government or with the participation or knowledge of a governmental official. *United States v. Jacobsen*, 466 U.S. 109, 113, 104 S. Ct. 1652, 80 L.Ed.2d 85, 94 (1984)." *Ex parte Hilley*, 484 So. 2d. 485, 490 (Ala. 1985). (Emphasis Added.) Here, the state obtained possession of the videotapes through a private citizen who was not acting as an agent of the police. Consequently, the appellant's Fourth Amendment right to secure against warrantless searches was not violated. *Hilley*. All the judges concur.

Court of Criminal Appeals
State of Alabama
Judicial Building, 300 Dexter Avenue
P.O. Box 301555
Montgomery, AL 36130-1555

SAM TAYLOR
Presiding Judge
JOHN PATTERSON
H. WARD MCMILLAN
FRANCIS ALLEN LONG, SR.
SUE BELL COBB
Judges

Clerk's Office
(334) 242-4590

Court of Criminal Appeals No. **94-1385**
(Marshall Circuit Court No. CC94-160)

Randy Taylor
Appellant

vs.

State of Alabama
Appellee

Dear Sir or Madam:

You are hereby notified that on **January 19, 1996,** the following indicated action was taken in the above-styled cause by the Court of Criminal Appeals of Alabama:

Application for rehearing **overruled.** Rule 39(k) motion **denied.**

LANE MANN
CLERK
COURT OF CRIMINAL APPEALS

IN THE SUPREME COURT OF ALABAMA

May 17, 1996

1950754

Ex parte Randy Taylor. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Randy Taylor v. State) (94-1384) (Marshall: CC-94-160)

CERTIFICATE OF JUDGMENT
Writ Denied

The above cause having been duly submitted, IT IS CONSTITUTED AND ORDERED that the petition for writ of certiorari is denied.

COSTS TAXED TO PETITIONER.

KENNEDY, J. – Hooper, CJ., Maddox, Shores and Cook, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 17 day of May, 1996.

Robert G. Esdale
Clerk, Supreme Court of Alabama